



## Attachment 1:

# Unclassified Controlled Information (UCI) Instructions

April 30, 2009

## A. GENERAL.

The purpose of this document is to assist offerors in the identification of Unclassified Controlled information (UCI) and provide protective measures for offerors to apply to UCI from its receipt or origination until its destruction. Protective measures for UCI will minimize the probability of inadvertent disclosure of UCI by offerors while increasing the difficulty of illegally obtaining UCI. None of these protective measures are intended to deny the general public of the United States access to any information to which they have a legal right.

Unclassified Controlled Information (UCI) [formally known as Sensitive Unclassified Information] is any information, regardless of its physical form or characteristics, which has been determined to have relative sensitivity and requires mandatory protection because of statutory or regulatory restrictions. UCI requires a degree of discretionary protection due to the risk to national or United States (U.S.) Department of Energy (DOE) interests or to the magnitude of loss or harm that could result from the inadvertent or deliberate misuse, alteration, disclosure or destruction of this information.

The DOE Portsmouth/Paducah Project Office (PPPO) Operation of Depleted Uranium Hexafluoride (DUF6) categories of UCI include:

- Unclassified Controlled Nuclear Information (UCNI)
- Official Use Only (OUO)
- Export Controlled Information (ECI)

### 1. Definitions:

- Unclassified Controlled Nuclear Information:** Certain unclassified but sensitive Government information concerning nuclear material, weapons, and components whose dissemination is controlled under section 148 of the Atomic Energy Act.
- Official Use Only:** Unclassified information which: a. has the potential to damage governmental, commercial, or private interests if disseminated to persons who do not need the information to perform their jobs or other DOE-authorized activities and b. falls under at least one of eight Freedom of Information Act (FOIA) exemptions, exemptions 2 through 9.

- c. ***Need to Know:*** The term “need-to-know” is defined as a determination by an Authorized Individual that a person requires access to specific information to perform official duties or other government-authorized activities. The need-to-know principle is essential to the protection of UCI.
- d. ***Export Controlled Information:*** Any technical information determined to contain technical data, the export of which is restricted by:
  - 10 CFR 810, DOE Assistance to Foreign Atomic Energy Activities, or
  - 15 CFR 774, U.S. Department of Commerce (DOC) Export Administration Regulations, Commerce Control List, Supplement 1 or
  - 22 CFR 121, U.S. Department of State (DOS) U.S. Munitions List, or
  - DOE export control guidance.

## B. PHYSICAL PROTECTION OF UCI

### 1. In Use

Any individual authorized access to UCI must maintain physical control over the matter to prevent unauthorized access to the information.

### 2. In Storage.

UCI must be secured behind a locked door or in a locked container/desk when unattended; or in a method which would prevent/preclude unauthorized disclosure.

### 3. Information Systems

- a. Password protected or on removable media
- b. With distribution restricted to those with established need-to-know
- c. Be clearly marked as appropriate

### 4. Transmission

- a. **Mail Transmission:** UCI must be in a single sealed opaque envelope or wrapping and addressed to the recipient to include marking “TO BE OPENED BY ADDRESSEE ONLY.” Packages may be sent as follows:
  - i) Hand-carried
  - ii) U. S. Mail by First Class, Express, Certified, or Registered Mail
  - iii) Any commercial carrier (e.g., Federal Express, Emery, etc.) using signature service

- b. **Over Telecommunication Circuits:** UCI must be protected by approved encryption when transmitted off site by telecommunications services. UCI transmitted over public-switched broadcast communications paths (e.g., Internet) then the information must be protected by approved encryption.

## **5. Reproduction**

Matter marked as containing UCI may be reproduced without the permission of the originator to the minimum extent necessary consistent with need to carry out official duties and need-to-know as long the matter is not marked as “Dissemination Controlled.” Any copy machine malfunctions must be cleared to ensure no UCI matter is left in the machine.

## **6. Destruction**

The normal method for destroying documents containing UCI is by using a strip-cut shredder that outputs strips not exceeding 1/4-inch wide. This may be done in workplace, if a strip shredder is available.

Computer storage media such as floppy disks, ZIP, JAZ cartridges, hard drives, CDs, etc., containing UCI must be destroyed by shredding/chipping, crushing or burning or returned to the EMCBC Office of Contracting. Prior to sending offeror equipment or media containing EMCBC information to an offsite vendor for repair or warranty credit or redeployment, the EMCBC information must be cleared by the offeror.

## **7. Loss or Unauthorized Disclosure**

Any person who determines that UCI has been or may have been lost or disclosed without authority must immediately report this information to the EMCBC Security Specialist as a security incident. A determination must be made as to whether an infraction or a violation has occurred. Unauthorized disclosure of any UCI that is protected by the Privacy Act, other Federal statutes, or site policy and procedure may result in civil or criminal sanctions or administrative action against responsible persons.

Any unauthorized disclosure shall be reported to the EMCBC Office of Contracting that provided the UCI.

# **C. UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION**

## **1. Categories**

If you produce a document that contains any of the following categories, the document must be reviewed for UCNI by an authorized Department of Energy Reviewing Official (RO).

- a. Designs of production or utilization facilities;
- b. Security measures (including security plans, procedures, and equipment) for the physical protection of production or utilization facilities or nuclear material, regardless of its physical state or form, contained in these facilities or in transit; or
- c. The design, manufacture, or utilization of nuclear weapons or components that were once classified as restricted data, as defined in section 11y. of the Atomic Energy Act.

The following items are examples of UCNI:

- a. Layouts/floor plans
- b. Special Nuclear Material storage locations
- c. Structural design details
- d. Dispersal of radioactive material
- e. Fixed process equipment details/location
- f. Piping, instrumentation, logic or wiring diagrams
- g. Glovebox layouts

**NOTE:** *If the document/data is not clearly concerned with these categories, it is not UCNI.*

**2. Access:** Access must be provided only to those authorized for routine or special access.

- a. **Routine Access.** Routine access refers to the normal exchange of UCNI during the conduct of official DOE business and allows for further dissemination of UCNI if certain requirements are met (See DOE M471.1-1, “Identification and Protection of UCNI,” Chapter II, Paragraph 1.a.2).
- b. **Non-U.S. Citizen Not Eligible for Routine Access.** Submit request to EMCBC Security Specialist within 60 days prior to requiring access to UCNI. Refer to DOE M 471.1-1, “Identification and Protection of UCNI, Chapter II Paragraph 1.a. (2) (c) for additional information.
- c. **Special Access.** An individual not authorized routine access may be approved for special access (i.e., attorney representing an employee in litigation with DOE). Submit request to EMCBC, Security Specialist within 60 days prior to requiring access to UCNI.

### 3. Marking of Matter

- a. Relationship to Other Types of Control Markings. UCNI markings must be applied to any unclassified matter that contains or reveals UCNI regardless of any other unclassified control marking (e.g., Official Use Only, company “proprietary”) that is also on the matter.
- b. Marking of UCNI
  - (1) Front Marking. When a Reviewing Official determines that unclassified matter contains UCNI, the Reviewing Official marks or authorizes the front of the matter to be marked as follows:

**UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION  
NOT FOR PUBLIC DISSEMINATION**

**Unauthorized dissemination subject to civil and criminal sanctions under section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).**

**Reviewing Official:** \_\_\_\_\_  
(Name/Organization)

**Date:** \_\_\_\_\_

**Guidance Used:** \_\_\_\_\_  
(List all UCNI guidance used)

- (2) Page Marking. The marking “UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION” or “UCNI” must be placed on the top and bottom of the front of the matter and (1) on the top and bottom of each interior page of the matter or (2) if more convenient, on the top and bottom of only those interior pages that contain UCNI.

## D. OFFICIAL USE ONLY

### 1. Guidelines:

- a. DOE guidance for OUO determination (statutory text, detailed discussion, and examples of each exemption) is based on DOE Guide (G) 471.3-1.
- b. All information designated by PPPO as OUO, if subject to a FOIA request, will be managed in accordance with DOE G 1700.1.

## 2. Categories of OUO.

Seven of the nine categories of information exempt from the publication and disclosure requirements of the FOIA, as detailed in DOE G 471.3-1, "Guide to Identifying Official Use Only Information," are designated as OUO by PPPO.

These seven categories of OUO information are listed below by Exemption Number corresponding to the original FOIA Exemption Number. The FOIA exemptions provide the basis for non-disclosure and generally are discretionary rather than mandatory.

- a. Exemption Two - Circumvention of Statute. This exemption concerns information related solely to the internal personnel rules and practices of PPPO.
- b. Exemption Four - Commercial/proprietary. This exemption concerns trade secrets and commercial or financial information of a privileged or confidential nature obtained from a person.
- c. Exemption Five - Privileged Information. This exemption concerns interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.
- d. Exemption Six - Personal Privacy. This exemption concerns personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- e. Exemption Seven - Law Enforcement. This exemption concerns records or information compiled for law enforcement purposes, but only to the extent stipulated in DOE G 471.3-1.
- f. Exemption Eight - Financial Institutions. This exemption concerns information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
- g. Exemption Nine - Wells. This exemption concerns geological and geophysical information and data, including maps, concerning wells.

## 3. Identification of OUO

In order to qualify as OUO, information must be unclassified; be included within one of the exemptions listed in Paragraph B.2. above; be created or obtained by PPPO; and be under PPPO control. Any employee who has cognizance over such information may determine whether the document contains OUO information. The document originator is responsible to identify and mark documents containing OUO information if deemed necessary for the protection of the information.

#### 4. Access

OOU access may be granted to the offeror and its employees with an established need-to-know in the performance of official or contractual duties. The responsibility to determine need-to-know rests with the person who has authorized possession, knowledge, or control of the information. If the OOU involves information subject to the Export Administration Regulation, the PPPO Export Control Program Manager shall be contacted prior to the release of the OOU information to a foreign national employee.

#### 5. Marking Requirements

- a. If the originator determines a document should be protected as OOU, the first page of the document must be marked with the following or similar statement:

##### **OFFICIAL USE ONLY**

**May be exempt from public release under the Freedom of Information Act (5 U.S.C. 5 52), exemption number and category \_\_\_\_\_:**

**Department of Energy review required before public release**

**Name/Org: \_\_\_\_\_ Date: \_\_\_\_\_**

**Guidance (if applicable) \_\_\_\_\_**

- b. The marking "**OFFICIAL USE ONLY**" (or **OOU** if space is limited) must be placed on the bottom of each subsequent page of the document or just the pages containing OOU information.
- c. Refer to DOE M 471.3-1, Chapter I, Paragraph 3, "Manual for Identifying and Protecting Official Use Only Information" for additional information on markings.

#### **E. EXPORT CONTROLLED INFORMATION (ECI)**

1. Export Controlled Information. If exported, ECI requires a technology export license or authorization under United States export regulations.

#### 2. Definitions:

- a. **Non-Public Technical Data (NPTD):** NPTD is technical data which is not publicly available and which is not specifically identified in 10 CFR 810, 15 CFR 774 - Supplement 1, or 22 CFR 121. The U.S. DOC requires an export license review prior to transferring NPTD to a foreign national (deemed export) or transferring NPTD out of the U.S.



- b. **Deemed Export:** A domestic release of export controlled technology or source code to a foreign national who is not a person lawfully admitted for permanent residence in the United States (e.g., holder of a green card) or a protected individual (e.g., refugee) under the Immigration and Naturalization Act [8 USC 1324B (a) (3)].
- c. **Export:** An actual shipment, transmission, or release of items, technology, or software out of the United States.
- d. **Release:** Release occurs when NPTD or ECI leaves the offeror's control or is transferred to a foreign national.
- e. **Release of Technology or Source Code:** Technology or source code is "released" for export through:
- Visual inspection by foreign nationals of U.S. - origin equipment and facilities;
  - Oral exchanges of information in the United States or abroad; or
  - The application to situations abroad of personal knowledge or technical experience acquired in the United States.
- f. **Technology:** Specific information necessary for the development, production, or use of a product. The information takes the form of technical data or technical assistance.
- NOTE 1:** Technical assistance -- May take forms such as instruction skills training, working knowledge, or consulting services.
- NOTE 2:** Technical assistance may involve transfer of technical data.
- g. **Technical Data:** May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, and read-only memories.

### 3. **Access:**

ECI access may be granted to offeror employees who are U.S. Citizens with established need-to-know in the performance of official or contractual duties. Foreign nationals may be given access to NPTD if approved by the PPPO Export Control Program Manager (ECPM) only after a need-to-know is established for the foreign national and an export license or authorization has been obtained from the appropriate U.S. agency (i.e., DOC, DOS, or DOE), if required. Export licenses or authorizations are for a specific technology and do not authorize access to any other technology without another specific EC review. The approval of the PPPO ECPM should be obtained prior to the release of ECI or NPTD to any foreign national no matter what form the technical data may take.





#### 4. Originator:

The originator of a document is responsible for the initial identification and protection of NPTD and ECI and must seek out an Export Control Reviewer to conduct a formal review if the information is being considered for release outside the DOE or to any foreign national. (Contact the EMCBC Office of Contracting.)

#### 5. EC Reviewer:

An individual, who by familiarization and/or experience is considered a subject matter expert, authorized to make a determination that equipment, material, or technical information is or is not export controlled. (Contact the EMCBC Office of Contracting.)

#### 6. Marking:

Requirements. Products containing ECI must be clearly marked in accordance with the following procedures:

- a. The following statement must be marked on the cover or first page of any information product determined to contain ECI:

##### **"EXPORT CONTROLLED INFORMATION"**

**Contains technical data whose export is restricted by statute. Violations may result in administrative, civil, or criminal penalties. Limit dissemination to U.S. citizens who are U.S. Department of Energy (DOE) employees or DOE contractors or employees of other U.S. Government agencies. The cognizant program manager must approve other dissemination. This notice shall not be separated from the attached document.**

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**Reviewer (Signature)**

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**Date**

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**Source Document**

- b. The bottom of each interior page determined to include ECI must be marked:

##### **"EXPORT CONTROLLED INFORMATION"**

- c. The marking of removable media and e-mail messages for ECI is the same as stated for OUO in paragraph B.5.
- d. Documents, faxes, e-mails, containing technical data being released to U.S. Government agencies and their contractors (U.S. citizens only) do not require an export control review if marked:

## CONTAINS NON-PUBLIC TECHNICAL DATA

**Requires Export Control Review Prior to Release to the Public or any Foreign National.**